

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Civil Writ Petition No. 232 of 2004 (S/B)

Date of decision: 17th November, 2004

For the approval of:

Hon'ble Chief Justice V.S. Sirpurkar.

Hon'ble Mr. Justice Rajesh Tandon.

- Whether the order/judgment should be sent to the reporters for reporting? (Yes)
- Whether the reporters be allowed to see the judgment? (Yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 232 of 2004 (S/B)

Pramod Kumar Upadhayay
S/o Late Narottam Upadhayaya
Presently posted as Range Officer,
Working plan Forest Division,
Ramnagar, Distt. Nainital Petitioner

Vs.

State of Uttaranchal & others Respondents.

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Mr. K.N.Joshi, learned counsel for the petitioner.
Mrs. Beena Pande, Standing Counsel for the State of U.P.
Mrs. Anjali, Standing Counsel for the Government of India.
Mr. K.P.Upadhayaya, learned counsel for the State of Uttaranchal.

Coram: Hon. V.S.Sirpurkar, C.J.
Hon. Rajesh Tandon, J.

Dated: 17.11.2004.

[Per Hon. the Chief Justice]

1. Heard learned counsel for the parties.
2. In this writ petition, petitioner is seeking a writ of certiorari to quash the impugned order dated 07.07.2004 by which he is relieved and sent to Uttar Pradesh. The contention of the petitioner is that he is a promoted Range Officer, who can be safely described non-P.F.S. Range Officer, and that he has finally been allocated by the Central Government to the State of Uttaranchal. A list has been submitted by the learned Standing Counsel for the U.P., which is Final Allocation List of State Cadre Employees to Uttaranchal, wherein at Serial no. 92, there is mention of the name of Sri Pramod Kumar Upadhayay, Range Officer. The contention of the learned counsel for the petitioner is that the petitioner is one who has been finally allocated to Uttaranchal and, therefore, the State of Uttaranchal is not justified in relieving him and making him over to Uttar Pradesh. Learned counsel also complains that though the petitioner had tried to join the State of U.P., but was not allowed to do so on the ground that he was finally allocated to the State of

Uttaranchal and as such there was no question of his being allowed to join in U.P.

3. Mr. K.P. Upadhyaya, learned counsel for the State of Uttaranchal, very strenuously suggests that though there is one Pramod Kumar Upadhyay, Range Officer, who has been finally allocated to the State of Uttaranchal, but it is not the petitioner- Promod Kumar Upadhyay, but some other Promod Kumar Upadhyay, who in fact, is also a Range Officer, presently serving in the State of U.P. According to the learned counsel, the said person presently working in the State of U.P. is the one who has been finally allocated and it is not the petitioner. Therefore, there appear to be no dispute on the following propositions:

- (i) That one Pramod Kumar Upadhyay, Range Officer, is finally allocated to the State of Uttaranchal.
- (ii) That the said Pramod Kumar Upadhyay, who has been finally allocated to the State of Uttaranchal is the promoted Range Officer;
- (iii) That Pramod Kumar Upadhyay, who is presently working in the State of Uttar Pradesh is not a promoted Range Officer, but is directly appointed Range Officer.

Besides this, there is also a letter dated 20 10.2004 - Annexure 1 to the rejoinder affidavit, wherein the Chief Conservator of Forest, Lucknow points out that the Government of India vide its letter no. 27/44/2004-SR(S) dated 13.02.2004 has issued a final list of allocation of 253 Range Officers and in that list at serial no. 92 is Pramod Kumar Upadhyay, Range Officer, and in this list officers from serial no. 56 to 149 are all promoted Range Officers. He also, therefore, reiterates that the said Promod Kumar Upadhyay, who has been finally allocated to the State of Uttaranchal is the one, who is promoted Range officer. There is no dispute at least at this stage that the petitioner is a promoted Range officer.

4. We, therefore, do not find any difficulty in holding that Pramod Kumar Upadhyay, petitioner herein, is the one who was finally allocated

to the State of Uttaranchal; that is clear position from the records as also from the facts that it is this Promod Kumar Upadhyay alone who is the promoted Range Officer. In that view, we allow the writ petition and set aside the impugned order dated 07.07.2004 and direct that the petitioner should be allowed to join in the State of Uttaranchal.

(Rajesh Tandon, J.) (V.S.Sirpurkar, C.J.)

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